

REMARKS

Review and reconsideration on the merits are requested.

Basis for Claim Amendments

The limited R₁ group finds basis at page 8, lines 1-24.

Lipophilic or hydrophilic finds basis at page 14, line 5.

The mixing sequence finds basis at page 21, line 11 - page 22, line 2 and page 24, lines 11-20.

The Prior Art

U.S. 5,294,444 Nakamura et al (Nakamura); U.S. 5,641,495 Jokura et al (Jokura); U.S. 6,355,232 Kaneko et al (Kaneko).

The Rejections:

Claims 7 and 12-14 under 35 U.S.C. § 103(a) as being unpatentable over Nakamura in view of Jokura. Page 2 of the Action.

Claims 7 and 12-20 under 35 U.S.C. § 103(a) as being unpatentable over Nakamura in view of Kaneko.

The Examiner's position is set forth in the Action and will not be repeated here except as necessary to an understanding of Applicants' traversal which is now presented.

Traversal

Nakamura

Japanese Patent JP 3008212 B2 corresponds to Nakamura. The present specification discusses JP '212 at page 3 as follows:

"Japanese patent 3008212 teaches transparent or translucent cosmetics comprising (A) an amphiphatic lipid, (B) a nonionic

surface active agent, (C) an ionic surface active agent, and (D) an aqueous medium, the ratio of (A) to [(B) + (C)] being 0.2 to 10. However, the amphiphatic lipids that are actually used are pseudoceramides. In addition, there is a fear of skin irritation due to the ionic surface active ingredient which is not preferred for cosmetics."

Thus, Nakamura does disclose transparent or translucent cosmetics. However, pseudoceramides are actually used in the Nakamura invention and there is no suggestion regarding the use of a **ceramide** as is defined in the present claims. The Examiner is requested to note the amendment to the definition of R₁ in claim 7 and above discussed.

Further in this regard, in the paragraph bridging pages 4/5 of the present Action, the Examiner points out that the instant claims require R₁ (equivalent position of R₂ in Jokura) can be a hydrocarbon, which can include a double bond containing hydrocarbon, and thus the instant claims do not exclude the double bond containing hydrocarbons of Jokura.

In this regard, Applicants respectfully submit that limiting the definition of R₁ as above distinguishes Jokura.

Thus, even if the combination of Nakamura and Jokura is made, Applicants respectfully submit that the rejection is flawed for this reason, i.e., there is no motivation or suggestion in the prior art to modify the Jokura compounds to reach a ceramide as now claimed.

In the paragraph bridging pages 5/6 of the present Action, the Examiner urges, with respect to Nakamura, that "a skilled artisan would have expected that the ceramides of Kaneko to function better than the ceramides or pseudoceramides of Nakamura."

Applicants respectfully respond as follows.

First, although the word "ceramide" is literally used in Nakamura, there is no specific disclosure or description of any fashion as to what kind of compound is contemplated as a

“ceramide” in Nakamura, and there actually is no example thereof. Accordingly, Applicants respectfully submit that there is no description of substance regarding the use of a “ceramide” in Nakamura, rather, Nakamura only describes and suggests in detail “pseudoceramides.”

Since the “pseudoceramide” in Nakamura has a chemical structure which is clearly different from that of a “ceramide” as defined and claimed in the present application, quite obviously one of ordinary skill in the art would not be able to predict which compound would have a better function unless comparative investigations of some type were actually performed.

As a final point, Applicants do wish to clarify the record to indicate that in accordance with the present invention, a polyhydric alcohol is, in fact, a mandatory component. It is specifically recited in claim 7 to distinguish the present invention from Nakamura. It is the sterol which is optional.

Thus, Applicants believe they have responded to the reasoning of the Examiner:

At the top of page 4 of the Action;

In the paragraph bridging pages 4/5 of the Action;

In the paragraph bridging pages 5/6 of the Action.

They further believe they have responded to the last full paragraph on page 7 of the Action.

Considering the amendments to the claims and the above arguments, withdrawal of the rejections and allowance is requested.

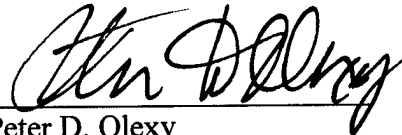
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111
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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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